

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Committee:		Kaua‘i Police Commission	Meeting Date	March 23, 2018
Location	Mo`ikeha Building – Meeting Room 2A/B		Start of Meeting: 9:03 a.m.	End of Meeting: 10:57 a.m.
Present	Chair Gerald Bahouth; Vice Chair Mary K. Hertog; Commissioners: Savita Agarwal, Catherine Adams, Roy Morita and Donald Okami Sr. Also present: Board & Commissions Office Staff: Support Clerk Mercedes Omo; Administrator Nicholas R. Courson; Office of the County Attorney: County Attorney Mauna Kea Trask; Police Department: Deputy Chief of Police Michael Contrades; Assistant Chief Robert Gausephol, Office of Professional Standards, Lieutenant James Miller and other ranked officers in the Kaua‘i Police Department.			
Excused	Commissioner Kevin Mince			
SUBJECT	DISCUSSION			ACTION
Call To Order	Chair Bahouth called for a five minute recess to thank Commissioner’s Agarwal and Okami for their selfless service and for being an integral part in building community trust through civilian oversight. Commissioner Okami served six years and three months and Commissioner Agarwal served a two-year term on the Fire Commission and was a member of the Committee on the Status of Women before she was appointed to the Police Commission.			Chair Bahouth called the meeting to order at 9:03 a.m. with six Commissioners were present and a quorum was established. At 9:25 a.m. the meeting was called back to order.
Approval of Minutes	Regular Open Session Minutes of February 23, 2018.			Ms. Adams moved to approve the meeting minutes as circulated. Mr. Morita seconded the motion. Motion carried 6:0.
Chair’s Comments/ Announcements	There were no comments or announcements by Chair Bahouth.			
Chief’s Monthly Reports, Announcements and Pertinent	Deputy Chief Contrades thanked Commissioners Agarwal and Okami for their many years of service on the Police Commission and for their unwavering support for the Department.			

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Updates		
Business KPC 2018-01	<p>Public announcements for Notarized Complaints No(s). KPC 2018-001 and KPC 2018-002 that were filed with the Kaua‘i Police Commission.</p> <p>After a diligent inquiry by the Commission, in which the Commissioners reviewed all of the materials including footage obtained by Body Worn Camera, the Kaua‘i Police Commission determined that the complaint had insufficient evidence to support the allegations. All parties were notified in writing of the Commission’s decision. This officially concluded the Commission’s review of notarized complaints KPC 2018-001.</p> <p>After a diligent inquiry by the Commission, in which the Commissioners reviewed all of the materials including footage obtained by Body Worn Camera, the Kaua‘i Police Commission determined that the complaint had insufficient evidence to support the allegations. All parties were notified in writing of the Commission’s decision. This officially concluded the Commission’s review of notarized complaints KPC 2018-002.</p>	
KPC 2018-02 & KPC 2018-03	<p><u>Briefing by Deputy Chief Michael Contrades on the Kaua‘i Police Department 2018 Goals that was recently presented to Mayor Carvalho Jr., and an update on the Department’s implementation of a new billing system for the County of Kaua‘i Alarm Ordinance.</u></p> <p>Deputy Chief Contrades noted that in addition to his presentation, he would also be covering the five goals that were recommended by the Commission for consideration and an update on the progress that has been made relating to the Kaua‘i County Code, Alarm Ordinance No. 931.</p> <p>He shared that in January 2018, the Department was in process of transitioning from a calendar-year to fiscal-year submission of departmental goals and objectives. This collaborative decision was based on the county’s fiscal nexus to the Department’s budgetary</p>	A

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	<p>allotment which directly impacts the formulation of achievable and realistic outcomes/goals.</p> <p>He explained that when the time came to start thinking about the Department's Fiscal Year 2019 goals, they utilized what they call "smart goals" that are specific, relevant, measurable, and fiscally achievable and have a realistic timeframe. He shared that the Department learned through experience that the goals they select has be under their total under control and not have to rely on other organizations within the county to achieve those goals. As an example, the Department at one time made it a goal to bring in a portable unit to the Līhu'e station to use as a training space for its officers so monies were set aside to do that. What they didn't realize is that they would have to rely on other agencies to accomplish that goal and for the most part spent a lot of time just waiting for something to happen and unfortunately in the end, they were unable to meet that goal. Henceforth, the seven goals that were presented to Mayor Carvalho that is under the control of the Department are as follows: 1) hold two Junior Police Academy classes and one Citizen's Police Academy class in the next fiscal year; 2) conduct traffic safety assessments for all public elementary and middle schools; 3) increase OVUI enforcement by 10 percent over Fiscal Year 2018; 4) conduct a Departmental Morale Climate Assessment; 5) conduct leadership trainings for all first line-supervisors; 6) provide Enhanced Crisis Negotiator training to the crisis negotiation team and members; and 7) establish policies to distribute prescriptions of Narcan to their police officers to protect them, the public and K-9 from the dangers of being exposed to fentanyl.</p> <p>Below are the five goals that were recommended by the Police Commission for consideration along with a brief narrative.</p> <p><u>Goal No.1: Finalization of the County's Alarm Ordinance</u></p> <p>Deputy Chief Contrades asked the Commissioners if they could remove this particular goal from their list of recommendations because more than likely the goal would be completed before the next fiscal year begins. He shared that in talking with his staff, they have just completed their talks with the vendor about the automatic billing through their new records management system and will be ready to implement the billing system very soon. He</p>	

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	<p>explained that the reason none of the billings have not gone out yet was because his staff had concerns about the accuracy and fairness of the new billing system, but from what he understands those concerns were addressed and that all of the previous billings will be pre-dated to January and sent out accordingly.</p> <p><u>Goal No. 2: Explore Options Regarding Vacancies and Recruitment</u> Deputy Chief Contrades asked if the matter could be deferred to the Commission’s next meeting when Commissioner Mince will be available. It is his hope that after the Commission sees his presentation and all they have done to boost the recruitment efforts, the Commission will decide not to form a permitted interaction group. The Commissioners agreed.</p> <p><u>Goal No. 3: Investigate and Address Prevention Measures to Reduce Officer Injuries</u> The Kaua‘i Police Department through the County of Kaua‘i has a review/investigation process in place which allows the Chief of Police and the appropriate supervisor (s) to review and investigate all workmen’s compensation claims. He explained that once an employee reports an injury/illness, the employee and their immediate supervisor must complete a County of Kaua‘i Accident/Injury Report claim form that addresses all important aspect of the employee’s injury/illness to do a timely investigation into the incident. He went on to explain that the form along with all pertinent documentation must be submitted within 48 hours of the incident to the Department of Human Resources where it would ultimately be referred to the County’s workman’s compensation firm. Some of the pertinent questions that appear on the form are: 1) the location of the injury; 2) what caused the accident; 3) description of the injury or illness; 4) was personable protective equipment used, if the answer is yes, did it perform correctly or if was not used, why wasn’t it used; 5) were there any witnesses, if the they answer yes, then all of their witnesses must submit written statements on top of the statements provided by the injured party and his or her supervisor; and 6) what could have been done to prevent the injury. He shared that in 2013 an analysis was done that showed a total of thirty-one claims were filed of which three were civilian related and twenty-eight were sworn personnel in the Kaua‘i Police Department and of those thirty-one claims only one was deemed avoidable.</p>	

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	<p>Vice Chair Hertog asked if he and the Chief review all of the claims on an annual basis to which Deputy Chief Contrades replied that they haven't done so in the past, but they are now doing it. He added that in addition to doing recall training and yearly physical readiness training, if they see any type of trend occurring they would move to implement additional training.</p> <p>Vice Chair Hertog asked if there was any statistics available that shows how many workmen's compensation claims were filed in 2017. Deputy Chief Contrades stated that between 2014 - 2017 there were a total of 110 claims filed and all were deemed unavoidable. In 2018, nine claims were filed of which one was deemed avoidable and the other eight was deemed unavoidable. He added that the Department does encourage all of its employees to file workmen's compensation claim regardless of how minor the injury maybe for documentation. Chair Bahouth asked if the light duties are offered to employees who have minor injuries but are able to perform light duties to which Deputy Chief Contrades replied when it involves worker's comp claims the Department does allow for that. Mr. Morita asked if stress related injuries fall under workman's compensation claims to which Deputy Contrades replied yes, and added that in addition to doing preventive measures which includes maintenance issues which they do not have control over, the Department has a validated yearly physical readiness program, a wellness program, stress management training for all executive staff members and recruitments, resiliency training and a peer support team.</p> <p><u>Goal No. 4: Investigate and Address Prevention Measures to Reduce Officer Involved Traffic Collisions</u></p> <p>The Department has a process in place that includes a policy on what needs to be done when it involves an officer related traffic collision, a blue team tracking software program which requires an officer to complete an assessment report on the incident which upon completion goes to the internal affairs unit for review, then over to the traffic safety section for another review. Normally, if it involves a minor traffic collision the officers are counseled, then are given a written exam and a driving test administered by their supervisor. If they find that the officer was involved in multiple traffic collisions and it's their fault it may escalate to some</p>	

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	<p>type of disciplinary action and remedial training (upon returning to full duty). If it involves a death, the officer is placed on administrative leave and after a period of time, he or she would be placed on administrative duties until the investigation is over and after the Administrative Review Board completes its review of the totality of the incident and makes a recommendation to the Chief of Police on what should occur.</p> <p>Mr. Morita asked in regard to traffic collisions if an officer's lights and siren are on while in pursuit of another vehicle and they cause an accident to occur; not with the officer's vehicle but the other driver that was in front of officer trying to pull over to let the officer go. Who is liable for the accident? County Attorney Trask replied that he wouldn't be able to provide an answer because it depends on the situation, but more so, he doesn't want to go on record saying that the County is liable for anything.</p> <p><u>Goal No. 5: Conduct a Departmental Morale Climate Assessment.</u></p> <p>The Department is planning on doing a morale climate assessment as one of their goals. The assessment will be done in-house through their technology team which they will be using a survey-monkey or something similar. All of the data will be collected anonymously and thanks to Commissioner Mince for providing the THP assessment model which they will use as a guide for formulating the questions.</p> <p>Mr. Okami asked if a climate assessment was conducted as part of the CALEA accreditation requirements to which Deputy Chief Contrades replied, he's not sure if it was a climate assessment but they did do an internal assessment. Mr. Okami asked if the results are available for the Commission to review to which Deputy Contrades replied, he would have to check.</p> <p>Vice Chair Hertog asked out of the five goals, how many goals would be left since the alarm ordinance and the goals to reduce officer injuries and officer involved traffic collisions have already been addressed.</p>	

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	<p>Deputy Chief Contrades stated that relative to the goal to explore options regarding vacancies and recruitment, they wouldn't recommend that as a goal because it's not within the Department's control. He noted that once the Commission sees his presentation on what the Department has done in terms of recruitment and filling its vacancies, the Commission would abandoned the idea of making it a goal.</p> <p>Vice Chair Hertog noted that the suggestion was not to say that the Commission wants the Department to recruit an x-amount of officers for each class. The purpose of making that goal is to review the processes involved with the recruitment from physical tests, mental tests down to the written tests. Deputy Chief Contrades reiterated that he would not recommend it as being a goal, but if the Commission wants to form a permitted interaction group, he supports it because the Commission will have an opportunity to see what the process entails. For all intents and purposes, the goal has to have some type of measurement and unless the measurement is to say the Department has completed the goal that's doable.</p> <p>Vice Chair Hertog stated that she thinks the Commissioners are willing to hold off until the next meeting to listen to his presentation and go from there. If at all, the goal could be something to the effect as how do we improve the process of recruitment? Deputy Chief Contrades stated that the Department has been racking its brains for the past six years trying to improve the recruitment process and has done everything from hyper production videos, recruiting from the mainland and long term recruitment that includes the Department's Junior Police Academy, the Department new Police Apprentice Program and conduct its own exam preparation course. Vice Chair Hertog noted that she would have his presentation placed on next month's agenda.</p> <p>Chair Bahouth stated that to recap, the only two goals remaining are 1) exploring options regarding recruitment and vacancies (potentially) and 2) conduct a departmental 360 degree morale climate assessment. He asked, in regard to the goals that were presented to the Mayor would the Commission like to include those goals as well, to be line with what was presented to the Mayor.</p>	

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	<p>Vice Chair Hertog stated that it would a good idea.</p> <p>Deputy Chief Contrades stated that relative to the fiscal year goals which are tied to budget, the Department has included a line item to cover cost of related to the crisis negotiators training and another line item to cover the overtime for the Junior Police Academy classes and one Citizen’s Police Academy class.</p> <p>Vice Chair Hertog asked if some of the fiscal goals are eligible for use of the Asset Forfeiture funds if the funds were not already earmarked for something else to which Deputy Chief Contrades replied yes, but the Department has already earmarked county funds, but if they were to do a swap, there’s a potential that the funds could be supplanted which is the reason why they would always say something to the effect of “unanticipated training opportunities” in case something comes up and they would have to use the Asset Forfeiture funds to pay for that particular training.</p> <p>Mr. Okami asked in regard to prevention measures (which cost a lot) to reduce injuries, although it no longer is a goal, is it possible to place a line item in the budget to cover the associated costs. Deputy Chief Contrades stated that the cost has been on a downward trend. As for creating a line item to cover the maintenance cost, the cost itself is hard to plan for year to year because the amount of injuries fluctuates year to year. But rest assured, the Department does take all of these things seriously to the point where the Department of Human Resource is keeping track of every incident, including doing a yearly analysis and comparisons in regard to the amount and type of worker’s compensation claims.</p> <p>Vice Chair Hertog asked for specifics relative to conducting traffic safety assessments at each of the public schools and is the Department planning on hiring more officers to which Deputy Chief Contrades replied by law the Department is responsible for traffic safety in and around the schools and for the most part, the traffic assessment would include keeping a log on how many vehicles come in and out of the schools, check to see where the crosswalks are located, assess if any barriers are needed and where to place those barriers, where would be the best</p>	

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	location to place the school crossing guards and any other unforeseen traffic safety issues that may stand out. With no further questions, Chair Bahouth moved to item KPC 2018-04.	
KPC 2018-04	Discussion and possible decision-making on whether or not the Commission should form a Permitted Interaction Group to get a better understanding on how the recruitment process in the Kaua‘i Police Department works and report its findings to the Commissioners at the next regularly scheduled Commission monthly meeting. Chair Bahouth called for a motion to defer item KPC 2018-04 pending Commissioner Mince presence and the presentation by Deputy Chief Contrades as it relates to the Department’s efforts to recruit and fill vacancies.	Mr. Morita moved to defer item KPC 2018-04 pending Commissioner Mince’s presence at the Commission’s meeting in April. Ms. Agarwal seconded the motion. Motion carried 6:0.
Announcements	Next regular monthly meeting – Friday, April 27, 2018 at 9:00 a.m. at the Mo’ikeha Building, Meeting Room 2A/2B.	
Executive Session Items	Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer or employee of the County, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission’s and the County’s powers, duties, privileges, immunities, and or liabilities as they may relate to the following agenda items:	At 9:44 a.m. Vice Chair Hertog began to read the Hawai‘i Revised Statutes to bring the meeting into Executive Session.
ES KPC 2018-001	Monthly update by Office of Professional Standards Lieutenant James Miller on the status of the Department’s disposition on all formal notarized complaints that were filed with the Police Commission and referred to the Office of the Chief for further review.	
ES KPC 2018-002	Monthly update by Chief Perry or his designated representative on any significant adverse incidents/events involving personnel in the Kaua‘i Police Department that could potentially impact the County, the Police Commission and the Kaua‘i Police Department.	

SUBJECT	DISCUSSION	ACTION
ES KPC 2018-009	Communication dated February 20, 2018 from Chief of Police Darryl Perry to Chair Gerald Bahouth, Vice Chair Mary K. Hertog and Commission Members, regarding the Department’s findings as it relates to a notarized complaint no. KPC 2017-010.	
ES KPC 2019-010	Formal new notarized complaint no. KPC 2018-003 filed against an officer in the Kaua‘i Police Department. The complainant alleges that while being placed in handcuffs, one of the officers checked his pockets, took out the complainant’s money and gave it to another officer who began to mock the complainant by pulling the money in and out of his pocket. Also, while in cellblock the complainant asked to speak to an attorney and the arresting officer told him to stop playing stupid; asked to use the restroom and was ignored. Upon release from cellblock, the complainant alleges that he was not given a property receipt	
ES KPC 2018-011	Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve the Executive Session meeting minutes of February 23, 2018, and to consult with its attorney on issues pertaining to the Commission’s powers, duties, privileges, immunities, and or liabilities as they may relate to this agenda item.	Ms. Adams moved to enter into Executive Session. Mr. Okami seconded the motion. Motion carried 6:0. At 9:46 a.m. the Commissioners entered into Executive Session.
Return to Open Session to Ratify the actions taken in Executive Session	<p>At 10:57a.m., the Commissioners returned back into Open Session. Upon returning to Open Session, Chair Bahouth asked Administrator Courson, if there was a way to keep on-going business or old business items on the agenda. He explained that the idea is to keep track of certain open session items that the Commission had asked the Chief to provide updates on, excluding notarized complaints.</p> <p>Mr. Courson stated that as long as the agenda contains a reasonable description of business to be considered by the commission at the meeting. He noted that per the Sunshine Law general descriptions such as “unfinished business” or “old business” without any further description would not satisfy the agenda requirements. Chair Bahouth asked if he had any suggestions on how the items should worded on the agenda, in both executive and open session to satisfy the Sunshine Law requirements. Mr. Courson stated that he’ll have to refer to Robert Rules and appropriately title the agenda based on that.</p>	<p>Vice Chair Hertog moved to ratify the actions taken in Executive Session for the following items:</p> <p>ES KPC 2018-001: Commissioners were briefed on the status of the notarized complaints that were filed with the Kaua‘i Police Department.</p> <p>ES KPC 2018-002: Commissioners were briefed on the status of the notarized</p>

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	<p>Chair Bahouth asked if the items can be placed on the agenda as early as next month to which Mr. Courson replied that, he and Mercedes would work on the language and if it doesn't accomplish the Commission's vision, then the Commission could do a more formal agenda item for discussion. He added that the only way an item would reappear on the preceding agenda is if the item was deferred which is the appropriate thing to do.</p> <p>With no further discussion, Chair Bahouth called for a motion to ratify the actions taken in Executive Session.</p>	<p>complaints that were filed with the Kaua'i Police Commission.</p> <p>ES KPC 2018-009: Due to the recusal of Mr. Morita from the discussion and decision-making, the motion carried 5:0 to close the complaint.</p> <p>ES KPC 2018-010: Due to a lack of information, the motion carried 6:0 not to sustain the complaint.</p> <p>ES KPC 2018-011: Motion carried 6:0 to approve the Executive Session Meeting Minutes of February 23, 2018. Mr. Morita seconded the motion. Motion carried 6:0.</p>
Adjournment	With no further business to conduct, Chair Bahouth called for a motion to adjourn the meeting.	Vice Chair Hertog moved to adjourn the meeting. Mr. Okami seconded the motion. Motion carried 6:0. At 10:57 a.m. the meeting adjourned.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Gerald Bahouth, Chair

(x) Approved as circulated on April 27, 2018
() Approved as amended. See minutes of _____ meeting.